

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CARDINAL HEALTH, INC.

Petitioner,

v.

NATIONAL BOARD OF MEDICAL  
EXAMINERS,

Respondent.

MISC. ACTION

No. 2-20-mc-00057-BMS

**CARDINAL HEALTH, INC.’S MOTION TO EXPEDITE TRANSFER  
THROUGH ENTRY OF AMENDED ORDER**

The Court has ordered this action transferred to the Southern District of West Virginia, but it appears that the transfer will be substantially delayed because the Court’s order omitted the word “forthwith.” The delay may make it impossible to obtain the discovery sought in the underlying case by the close of fact discovery. Petitioner Cardinal Health, Inc., therefore moves the Court to enter an Amended Order expediting the transfer of this miscellaneous action, giving immediate effect to the Court’s final Order of June 22, 2020. *See* ECF No. 12. In support, Petitioner states as follows:

1. The June 22 Order respecting Petitioner’s Motion to Compel Discovery Responses from Respondent National Board of Medical Examiners granted Petitioner its threshold request for transfer to the United States District Court for the Southern District of West Virginia “for that court to decide the merits” of the motion. *Id.* The Court likewise declined to address the merits of Respondent’s Cross-Motion to Quash Cardinal Health’s Rule 30(b)(6) Deposition. *See id.*

2. Petitioner’s briefing in support of its motion, and in opposition to Respondent’s cross-motion, emphasized the propriety of transfer “in order to avoid disrupting the issuing court’s

management of the underlying litigation,” ECF No. 1-6 at 2, as evidenced by the appointment of a Special Master in the issuing court who has devised “procedures to evaluate discovery issues under a tight schedule,” *id.* at 4. And the underlying litigation schedule is indeed tight: fact discovery is to conclude no later than July 27, 2020. *See* ECF No. 9 at 3 n.1. Petitioner must by that time obtain a favorable ruling from the Special Master on its motion to compel; thereafter receive, process, and analyze all documents produced by Respondent; then schedule and conduct the Rule 30(b)(6) deposition of Respondent.

3. On June 25, 2020, three days following the Court’s entry of its June 22 Order, Petitioner’s counsel noted that the issuing court’s docket in the underlying case, No. 3:17-01362, had yet to reflect transfer of this miscellaneous action. On inquiry, a representative of this Court’s Office of the Clerk advised Petitioner’s counsel that, unless the Court’s order specified transfer “forthwith,” transfer would not occur immediately and be deferred for thirty days.

4. If this miscellaneous action is not transferred until July 22, 2020, just five days in advance of the fact discovery deadline, it will impede discovery in the underlying case, which is set to be the first case tried in the nationwide prescription opiate multidistrict litigation. Petitioner cannot possibly litigate and prevail upon the merits of its motion; obtain and make sense of Respondent’s document production; then schedule, prepare for, and conduct the Rule 30(b)(6) deposition of Respondent in the five days allotted — two of which fall on a weekend.

5. Petitioner therefore respectfully requests that the Court enter the proposed Amended Order, attached as Exhibit A, which differs from its June 22 final Order only insofar as the word “FORTHWITH” has been inserted in Paragraph 3 immediately following the word “TRANSFERRED.”

6. Petitioner further requests that the Court expedite entry of the proposed Amended Order so the trial court in the underlying case may timely consider the merits.

DATED: June 26, 2020

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***Counsel for Petitioner Cardinal Health, Inc.***

**CERTIFICATE OF SERVICE**

I, Patricia Mulvoy Kipnis, hereby certify that a copy of the foregoing **CARDINAL HEALTH, INC.'S MOTION TO EXPEDITE THROUGH ENTRY OF AMENDED ORDER** was electronically filed on June 26, 2020, via the Court's CM/ECF System, which will send notification of such filing to counsel of record.

/s/ Patricia Mulvoy Kipnis  
Patricia Mulvoy Kipnis